



29 AUG 2006

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In re Application of
KNIGHT et al.
U.S. Application No.: 10/540,042
PCT No.: PCT/EP03/14786
Int. Filing Date: 23 December 2003
Priority Date: 23 December 2002
Attorney Docket No.: 4245-107
For: APPARATUS AND METHOD FOR
STORING PROTEINS

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a) in Patent Application" filed 22 August 2006 to accept the application without the signature of joint-inventor, Larissa Pinnock. The \$200 petition fee has been submitted.

BACKGROUND

On 23 December 2003, applicants filed international application PCT/EP03/14786 which claimed a priority date of 23 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 July 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2005.

On 22 June 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 21 November 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 April 2006, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 13 July 2006, applicants' petition was dismissed without prejudice.

On 22 August 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor.

A review of the papers filed 25 April 2006 and 22 August 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Larissa Pinnock) refused to sign, stated the last known address of the non-signing inventor (Larissa Pinnock), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 23 December 2003 under 35 U.S.C. 363, and a date of **22 August 2006** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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Attorney Docket No.: 4245-107
For: APPARATUS AND METHOD FOR STORING PROTEINS

Dear Larissa Pinnock:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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